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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/611,733	07/07/2000	Timothy M. Schmidl	TI-30650	6869

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EXAMINER
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NGUYEN, ALAN V

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/611,733

Applicant(s)

SCHMIDL ET AL.

Examiner

Alan Nguyen

Art Unit

2662

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): 35 USC 112 First paragraph rejection of claims 1, 19, and 25.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment 1 on the following page.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is ~~(or will be)~~ as follows:


Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-31.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
**JOHN PEZZLO**  
**PRIMARY EXAMINER**

In response to Applicant's request for reconsideration received on April 27,

2004.

1. The rejection under 35 U.S.C.112, first paragraph, has been dropped due to Applicant's response.

2. The response for the rejection under 35 U.S.C. 102(e) has been considered but does not overcome the rejection for the following reasons:

-- Selecting a frequency and not selecting another frequency from the plurality of frequencies on which to transmit a selected communication to the second device in response to the information indicative of communication quality

-- (According to the wording of this claim limitation, when a frequency is selected to transmit a packet, only that frequency is used to transmit said packet, and other frequencies are not used to transmit said packet at that instant time. A conventional frequency hopping pattern scheme does this. Furthermore, the Kostic reference discloses when the pattern is changed, frequencies in the pattern with poor quality are replaced, therefore not selected or used in said pattern; see col 4 lines 45-54).

Applicant has stated that the Kostic reference fails to show -- A method and interface from a first device to a second device arranged to receive a

plurality of frequencies via a wireless communication link according to a predetermined frequency hopping pattern -- as disclosed in claims 1-16, 19-24, and 25-27.

The base station 304 from figure 3 identifies an appropriate pattern for each mobile device and relays that pattern to the mobile device (col 9 lines 5-41). This pattern is identified prior to transmission to the mobile devices, based on the quality measurement taken prior by the base and mobile stations. Furthermore during initiation of the system, the first pattern that is sent to the mobile device is a frequency hopping pattern that is predetermined by base station 404.

Applicant has also stated that the Kostic reference fails to show -- Transmitting the selected communication to the second device via the wireless communication link on the selected frequency hopping pattern for a transmission by the first device -- and -- Transmitting to the first device on the selected frequency at the time the selected frequency is specified by the frequency hopping pattern -- as disclosed in claims 1-16, 19-24, and 25-27.

The base station creates the hopping pattern based on quality measurements of each frequency (col 9, lines 35-50). Column 5, lines 25-30 discloses the process in transmitting the selected communication. Each frequency dwell within this frequency hop pattern has a duration of 10 ms. The system frequency in use during each frequency dwell of this frequency hop pattern may be determined using FIG. 2. For example, frequency 820MHz is

modulated with voice and/or data information during the first frequency dwell of this frequency hop pattern. Hop patterns are assigned for both uplink and downlink transmissions (col 9 lines 45-50).